

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEMETRIUS BAILEY : CIVIL ACTION
: :
v. : :
: :
JEFFREY BEARD, et al. : NO. 09-3212

M E M O R A N D U M

O'NEILL, J.

JULY 27, 2009

Plaintiff, an inmate, is seeking to bring a civil action without prepayment of fees. Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

There are no allegations in plaintiff's complaint that would suggest that he was in imminent danger of serious physical injury at the time that this action was filed. Furthermore, prior to the filing of the instant case, plaintiff filed three actions, which were dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹

¹ In the United States District Court for the Western District of Pennsylvania, Civil Action No. 00-1310 was dismissed for failure to state a claim upon which relief may be granted by Order dated November 22, 2000, and the United States Court of Appeals for the Third Circuit dismissed that case on appeal, in Civil Action No. 00-4334, pursuant to 28 U.S.C. § 1915(e)(2)(B) by Order dated December 6, 2001. Finally, Civil Action No. 99-470 was dismissed by the Western District Court for failure to state a claim upon which relief may be granted by Order dated December 22, 1999.

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied.

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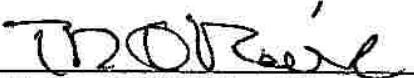
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O R D E R

AND NOW, this 27 day of July, 2009, IT IS HEREBY
ORDERED that:

1. Plaintiff's motion for leave to proceed in forma pauperis is DENIED pursuant to 28 U.S.C. § 1915(g);
2. The Clerk of Court shall mark this case CLOSED statistically.

BY THE COURT:


THOMAS N. O'NEILL, JR., J.